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MONTANA LEGISLATIVE HISTORY

Chapter 106 19 97

Bill H _____ S 86 Original bill & history ✓ C

H. Committee on Transportation		S. Committee on Hwys & Transportation	
Hearing Date(s) Feb 10	✓ C	Hearing Date(s) Jan 21	✓ C
_____	____ C	Jan 23	✓ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out _____	____ C		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

1997 LEGISLATIVE HISTORY

The 1997 Montana Legislature has dramatically changed the nature of the legislative minutes. Specifically, the minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are somewhat fuller in content. Exhibits available from the State Law Library (which may include written statements, attendant information, roll call votes, roll call attendance, a list of public members present, specific action taken on legislative bills, etc.) are included with this request. For information on other exhibits, contact the Montana Historical Society Archives at 444-4774. Exhibits may also be purchased on a CD-ROM from the Montana Legislative Council (444-3064).

Just as in the 1995 legislative session, the House and Senate hearings were recorded. The Historical Society is the depository for the tapes. For information on accessing the tapes, call the archives at 444-4774.

If you have concerns over the format of the 1997 legislative minutes, it is suggested that you contact your state legislators.

4/03	2ND READING CONCURRED	58	40
4/04	3RD READING CONCURRED	57	41
	RETURNED TO SENATE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS NOT CONCURRED	49	1
4/09	FREE CONFERENCE COMMITTEE APPOINTED		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/16	TAKEN FROM 2ND READING AND RETURNED TO FREE CONFERENCE COMMITTEE		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	49	0
4/18	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	43	6
4/16	HOUSE		
4/10	FREE CONFERENCE COMMITTEE APPOINTED		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/16	FREE CONFERENCE COMMITTEE REPORT NO. 2		
4/17	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	99	0
4/17	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 2 ADOPTED	67	33
4/24	SIGNED BY PRESIDENT		
4/24	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR CHAPTER NUMBER 431 EFFECTIVE DATE: 10/01/97		

SB 86 INTRODUCED BY CRISMORE *LC0385 DRAFTER: KURTZ*

CLARIFY THE RULE OF RIGHT-OF-WAY AT AN INTERSECTION

BY REQUEST OF STATE AUDITOR

12/31	INTRODUCED		
1/03	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/06	FIRST READING		
1/21	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED		
1/25	2ND READING PASSED	46	0
1/27	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
1/28	FIRST READING		
1/28	REFERRED TO TRANSPORTATION		
2/10	HEARING		
2/12	COMMITTEE REPORT—BILL CONCURRED		
3/10	2ND READING CONCURRED	97	3
3/11	3RD READING CONCURRED	99	1
	RETURNED TO SENATE		
3/14	SIGNED BY PRESIDENT		
3/14	SIGNED BY SPEAKER		
3/17	TRANSMITTED TO GOVERNOR		
3/19	SIGNED BY GOVERNOR CHAPTER NUMBER 106 EFFECTIVE DATE: 10/01/97		

SENATE BILL NO. 86

INTRODUCED BY CRISMORE

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RULE OF RIGHT-OF-WAY AT AN INTERSECTION; AND AMENDING SECTION 61-8-339, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-339, MCA, is amended to read:

"**61-8-339. Vehicle approaching or entering intersection.** (1) When two or more vehicles enter or approach an intersection from different highways ~~at approximately the same time~~, the driver of the vehicle on the left shall yield the right-of-way to ~~the vehicle on the right~~ all vehicles approaching from the right that are close enough to constitute an immediate hazard.

(2) The right-of-way rule declared in subsection (1) is modified at through highways and otherwise as stated in this chapter."

-END-

MINUTES

MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 21, 1997, at 1:00 pm, in Room 410.

ROLL CALL

Members Present:
Sen. Arnie A. Mohl, Chairman (R)
Sen. Mack Cole, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Bob DePratu (R)
Sen. John R. Hertel (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Services Division
Phoebe Kenny, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 82 and SB 86; Posted 1-8-97
Executive Action: SB 29

HEARING ON SB 86

Sponsor: **SENATOR WILLIAM CRISMORE, SD 41, Libby**

Proponents:

Frank Cote, Deputy Insurance Commissioner
Craig Reap, Colonel MT Highway Patrol

Opening Statement by Sponsor:

SENATOR WILLIAM CRISMORE, SD 41, Libby, today I bring you Senate Bill 86 by request of the State Auditors office. This bill is to clarify the rule of unmarked intersections. The law has always

read that the person on the right entering the intersection had the right of way. There is some confusion at times about who was there first, and there can be some controversy. We have tried to add some clarifying language, and the amendment actually becomes the bill. **EXHIBIT 1.**

Proponents' Testimony:

Frank Cote, Deputy Insurance Commissioner, This bill, with the amendment that was proposed by the sponsor, will make it so you must stop for the vehicle on the right. If you are on the left you are at fault.

Colonel Craig Reap, MT Highway Patrol, I support this bill. The law is vague and makes it hard to take any enforcement action. We see this as a way to make it easier and more understandable to the people involved in the crash.

Questions From Committee Members and Responses:

SENATOR MACK COLE, do you have a lot of accidents because of the confusion in the old bill or is this just a clarification.

Colonel Reap, I don't know that this will reduce the number of accidents, it will take care of a lot of confusion on the enforcement standpoint.

SENATOR COLE, this is more for insurance purposes?

Colonel Reap, that is correct.

Closing by Sponsor:

SENATOR CRISMORE, I do think that this makes it easier for a law enforcement officer. This might not stop the accident, but it will stop the arguing.

HEARING ON SB 82

Sponsor: **SENATOR DALE MAHLUM, SD 35, Missoula**

Proponents:
Chris Gollus, MT Chamber of Commerce
Patricia Saindon, MT Department of Transportation
Beverly Gibson, MT Association of Counties
John Talbot, Save Scenic Montana
Ben Havdahl, MT Motor Carriers Association
Pam Dale, Helena Citizens Council
Clair Strickler, Citizens for a Better Flathead
Chris Imhoff
Matthew Cohn, Department of Commerce
Daphne Jones, Montana Preservation Alliance
Louise Bruce, Scenic Byway Advisory Council

SENATE HIGHWAYS
EXHIBIT NO. 1
DATE 1-21-97
BILL NO. SB86

Amendments to Senate Bill No. 86
1st Reading Copy

Requested by Senator Crismore
For the Committee on Highways and Transportation

Prepared by Todd Everts
January 20, 1997

1. Page 1, line 14.
Following: "right"
Strike: "that" through "hazard"

2. Page 1.
Following: line 14
Insert: "(2) If the driver of a vehicle on the left is involved in a collision at an intersection or interferes with the movement of a vehicle on the right, the collision or interference is evidence of the driver's failure to yield the right-of-way to the vehicle on the right."
Renumber: subsequent subsection

3. Page 1, line 15.
Strike: "subsection (1)"
Insert: "this section"

MONTANA SENATE
1997 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 1-21-97

NAME	PRESENT	ABSENT	EXCUSED
SEN. ARNIE MOHL, CHAIRMAN	✓		
SEN. MACK COLE, VICE CHAIRMAN	✓		
SEN. LARRY BAER	✓		
SEN. BOB DE PRATU	✓		
SEN. JOHN HERTEL	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. GREG JERGESON	✓		
SEN. LINDA NELSON	✓		
SEN. BARRY "SPOOK" STANG	✓		

SEN:1997
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DATE 1-21-97

SENATE COMMITTEE ON Highways and Transportation

BILLS BEING HEARD TODAY: SB 82, SB 86

< ■ > **PLEASE PRINT** < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
William McCausland	Helena Citizens Council	SB 82	X	
Sara Busey	Save Scenic Montana	SB 82	X	
Barbara Vanes	Save	SB 82	X	
Chris Imhoff	Helena citizen	SB 82	X	
Bud Williams	Innkeepers Assoc	SB 82	X	
Elaine Stinkler	Citizens for Better Flathead	"	X	
CRAIG REAP	MHP	SB 86	X	
Karolin Koendorf	La C Co. Commission	SB 82	X	
Greg Hanser	MyHRK Adv	SB 82		X
Kirk McAlmond	Myhre Adv.	SB 82		X
Allen Ammeter	Environ Coalition	SB 82		X
Keith Colbo	Mt Tourism Coalition	SB 82	X	
Matthew Cohn	Dept of Commerce	SB 82	X	
Joe Warren	HCW Corp	SB 82		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

DATE 1-21-97

SENATE COMMITTEE ON Highways and Transportation

BILLS BEING HEARD TODAY: SB 82, SB 86

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
DENNIS HARRIMAN	BILLINGS NEON	82		
John Talbot	Save Scenic Montana	82		
CHRIS J. GALLUS	MT CHAMBER	82	✓	
PATRICIA SAINDON	MDT	82	✓	
LARRY Brown	AgRes. Assoc	82	—	—
Clint Erb	Self	82	✓	
FRANK COTE	ST. Auditor	86	✓	
David Duff	MT Audubon	82	✓	
Beverly Gibson	MACO	82	✓	
Gregory Van Horssen	State Farm	86		✓
Pamela J. Dale	Helena Citizens Council	82	✓	
Louise Bruce	Scenic Byway Advisory Council	82	✓	
Ben Havdahl	MT Motor Carriers	Amend 82	✓	
Don Allen	MWPA	82	✓ (w/amends)	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

REGISTER.F10

SENATOR HERTEL, when Mr. Keim asked me if I would be willing to sponsor this, I did think twice about it. Thank you for a real good hearing. Again this is a good house cleaning bill. It has merit and I hope you look favorably on it.

EXECUTIVE ACTION ON SB 86

Motion: **SENATOR HERTEL,** moved **SB 86 DO PASS**

Discussion:

SENATOR NELSON, the amendment really takes the place of the bill so I would like Connie to explain it to us.

Connie Erickson, What it will basically say is that the driver of the vehicle on the left shall yield the right-of-way to all vehicles approaching from the right. Then it will go on and insert a new subsection 2, that if the vehicle on the left is involved in a collision at the intersection, that is evidence that the driver failed to yield the right of way. When they have these accidents they have a hard time determining who was at fault. So what this amendment is saying is if the driver on the left is involved in the collision then that is evidence that they were at fault.

SENATOR JABS, what if one driver was driving at excessive speed and the other was going slow, if they collided the one on the left would be at fault even though the other fellow was illegal too?

Colonel Craig Reap, MT Highway Patrol, that comes up. The investigating officer would have to decide if in fact they did contribute to the crash. If they did it wouldn't necessarily mean that the person on the left would be at fault. The person on the left has an additional obligation to make sure that intersection is clear.

SENATOR LARRY BAER, I looked at this bill originally as a simplification of existing law, but the amendment that is proposed here changes the character intended by the bill and would perhaps change it's intent. If we adopt this amendment we are eliminating the application of comparative negligence. Which by Montana law would allocate fault to either one driver or the other depending on their negligence. It is applied to the respective damages awarded to the plaintiff. It also would make the driver on the left strictly liable for the result of an accident regardless of what the driver on the right had done.

Greg Vanhorsen, as I read the amendment it does in fact create a grave concern about the issue of negligence. It appears to me to read that if you are coming from the left hand side of an intersection and there is a collision you are at fault. That should raise concerns for virtually everyone. It does change the law that currently exists.

SENATOR BAER, I can see this creating tremendous harm in the courts. It is a real drastic change to the law of negligence applied to this type of situation. Frankly I don't know what good can come from it if we approve this amendment. It will create a fire storm of litigation.

SENATOR HOLDEN, if the bill was passed out of committee without the amendment would you still want to support this bill.

Colonel Reap, I was in support of the bill before the amendment.

SENATOR HOLDEN, I have a lot of concern with line 14, where you are talking about constituting immediate hazard. I am wondering if it would be more appropriate that we didn't offer an amendment that put a period after the word right, and strike all the rest of that line.

Colonel Reap, I think the intent of that continuation was so that there could be some kind of determination at what point the yield would have to me made. Approximately, in my opinion has been too vague of a term.

SENATOR BAER, so what you are saying is the language, at approximately the same time, has been problematic to you in making a determination. What you intended to do by way of this bill was to better define the hazard of a situation so you could properly apply liability.

Colonel Reap, I don't know if liability is the right word, I think what we were looking for was whether there was a violation or fault.

SENATOR JERGESON, couldn't we add some language that said something to the effect, not withstanding evidence of contributed negligence, then this applies.

Motion: **SENATOR HOLDEN** moved the amendment.

Discussion:

SENATOR COLE, I would like **Colonel Reap** to explain it a little more so we are clear on what the amendment does.

Colonel Reap, if there is other evidence of violation, I think it would melt in with the amendment of the bill.

SENATOR JABS, I thought **Colonel Reap** came here to support the bill with out the amendment, so I took it that you were not in support of the amendment. Are you in support?

Colonel Reap, Yes, I think the amendment makes it even more clear.

Vote: The motion that the amendment **DO PASS failed** with **SENATORS MOHL, COLE, BAER, NELSON, AND STANG VOTING NO.**

Discussion: **SENATOR HOLDEN,** without the amendment of the bill enlighten us about this constituting immediate hazard.

Ward Shanahan, this is a bill drafted by the Insurance Commissioner. In trying to evaluate the position that we take on these bills, I felt that this is one that was not a significant change in the law so I decided not to oppose this bill. The immediate hazard identifies that the one on the left has to make the judgement.

SENATOR BARRY "SPOOK" STANG, I believe this clarifies that they have to be an immediate hazard.

SENATOR BAER, I agree with **SENATOR STANG**. This clarifies the law and might be helpful to our law enforcement personnel.

SENATOR BOB DEPRATU, eliminating the amendment made me comfortable with the bill.

SENATOR JABS, is there something about if the person could have avoided it, even though you have the right of way and everything else, but if you could have avoided it would that be taken into consideration?

Colonel Reap, yes that comes up, but in an enforcement standpoint that person is still in violation of the right away law.

Vote: **SB 86 PASSED UNANIMOUSLY.**

EXECUTIVE ACTION ON

Motion/Vote: **SENATOR HOLDEN** moved a **DO PASS on SB 129. PASSED UNANIMOUSLY.**

SENATE STANDING COMMITTEE REPORT

January 23, 1997

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 86 (first reading copy -- white), respectfully report that SB 86 do pass.

Signed: _____
Senator Arnie Mohl, Chair

TS Amd. Coord.
SR Sec. of Senate

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MONTANA SENATE
1997 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL DATE 1-23-97

NAME	PRESENT	ABSENT	EXCUSED
SEN. ARNIE MOHL, CHAIRMAN	✓		
SEN. MACK COLE, VICE CHAIRMAN	✓		
SEN. LARRY BAER	✓		
SEN. BOB DE PRATU	✓		
SEN. JOHN HERTEL	✓		
SEN. RIC HOLDEN	✓		
SEN. REINY JABS	✓		
SEN. GREG JERGESON	✓		
SEN. LINDA NELSON	✓		
SEN. BARRY "SPOOK" STANG	✓		

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{Tape: 1; Side: A; Approx. Time Count: 57.7 - 64.3 }
Questions From Committee Members and Responses: Reps. Wells, Anderson, Brainard, Ryan.

Responses by Dave Galt, Senator Crismore.

{Tape: 1; Side: A; Approx. Time Count: 64.5; }
Closing by Sponsor: Senator Crismore closed the Hearing on SB 129.

HEARING ON SB 86

"AN ACT CLARIFYING THE RULE OF RIGHT-OF-WAY AT AN INTERSECTION;"

Sponsor: Senator Crismore, SD 41.

{Tape: 1; Side: A; Approx. Time Count: 66.1;}
Opening Statement by Sponsor: Senator Crismore said the Bill would clarify the rule of right-of-way vehicles approaching or entering intersections.

{Tape: 1; Side: A; Approx. Time Count: 66.2;}
Proponents: Frank Cote, Deputy Insurance Commissioner, State Auditor's Department.

Opponents: None

{Tape: 1; Side: A; Approx. Time Count: 69.2 - 75.2 }
Questions From Committee Members and Responses: Reps. Marshall, Devaney, Bookout, Anderson,

Responses by Frank Cote, Leanne Kurtz,

{Tape: 1; Side: A; Approx. Time Count: 75.5; }
Closing by Sponsor: Senator Crismore closed the Hearing on SB 86.

EXECUTIVE ACTION ON HB 353

{Tape: 1; Side: A; Approx. Time Count: 77.3 }
Amendments: Leanne Kurtz explained the amendments.

Motion/Vote Rep. Brainard moved HB 353 DO NOT PASS. Motion carried 13 - 1.

{Tape: 1; Side: A; Approx. Time Count: 81.0; Comments: .}
Discussion: Reps. Marian Hanson, Devaney, Simpson.

Motion/Vote: Rep. Devaney moved to TABLE HB 353. Motion carried unanimously. 15 - 0.

EXECUTIVE ACTION ON HB 326

{Tape: 1; Side: A; Approx. Time Count: 81.9; }
Motion: Rep. Brainard moved DO PASS on HB 326.

{Tape: 1; Side: A; Approx. Time Count: 84.6; }
Motion/Vote: Rep. Brainard offered a conceptual amendment to exempt municipalities from the zone. Motion carried unanimously. 14 - 0.

{Tape: 1; Side: A and B; Approx. Time Count: 84.9 - 0.3; }
Discussion: Reps. Brainard, Simpson, Devaney, Anderson.

{Tape: 1; Side: B; Approx. Time Count: 1.7; }
Amendments: Rep. Anderson offered amendment, Page 3, to eliminate county law enforcement officers from being the sole enforcers and to eliminate lines 27 and 28 because it is a self-feeding program and the money collected from these fines goes into the county's general fund to be used for costs incurred in the administration of sub-section 4.

{Tape: 1; Side: B; Approx. Time Count: 4.1; }
Discussion: Reps. Marian Hanson, Anderson, Marshall, Brainard, Bookout, Ryan, Wells, Ewer.

Amendments: Rep. Anderson withdrew his amendment.

Motion: Rep. Brainard withdrew the motion to DO PASS on HB 326.

Motion/Vote: Rep. Bitney moved to gently TABLE HB 326. Motion carried unanimously. 15 - 0.

{Tape: 1; Side: B; Approx. Time Count: 12.3; }
Rep. Ryan, Rep. Wells and Rep. Ewer formed a committee to meet with Rep. Brainard for further study.

EXECUTIVE ACTION ON HB 385

{Tape: 1; Side: B; Approx. Time Count: 13.1; }
Motion: Rep. Ryan moved HB 385 DO PASS.

{Tape: 1; Side: B; Approx. Time Count: 14.8; }
Motion/Vote: Rep. Marian Hanson moved an amendment to place "on-coming" traffic on Line 15, Page 2. Motion carried unanimously. 16 - 0.

{Tape: 1; Side: B; Approx. Time Count: 15.1; }
Motion/Vote: Rep. Brainard moved DO PASS AS AMENDED. Motion carried unanimously. 16 - 0.

EXECUTIVE ACTION ON SB 86

Motion/Vote: Rep. Ryan moved DO CONCUR with SB 86. Motion carried unanimously. 16 - 0.